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# THE RIGHTS TO LAND, FOOD AND TOURISM RELATED TO AGRICULTURAL LAND CONVERSION IN BALI: HOW SUBAK PLAY A ROLE?

Ni Gusti Ayu Dyah Satyawati

*Doctor of Law, Udayana University, Denpasar Bali, Indonesia*

I Nyoman Suyatna

*Doctor of Law, Professor, Udayana University, Denpasar Bali, Indonesia*

Putu Gede Arya Sumertha Yasa

*Doctor of Law, Profesor, Udayana University, Denpasar Bali, Indonesia*

I Dewa Gede Palguna

*Doctor of Law, Udayana University, Denpasar Bali, Indonesia*

Putu Sudarma Sumadi

*Doctor of Law, Profesor, Udayana University, Denpasar Bali, Indonesia*

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## ABSTRACT

Bali, one of the world's tourism destinations, is now facing a paradoxical situation because the increasing number of tourists visiting Bali is going hand in hand with the gradual reduction in productive agricultural land due to land conversion. This paper analyzes the massive practice of converting productive farmland for tourism in Bali. It offers a human rights law lens, particularly the rights to land, food, and tourism, to view the problem discussed in the paper. Legal research primarily reads international legal instruments, Indonesia's laws and regulations, and some secondary materials. The paper suggested that although the Bali provincial government has issued rules and policies to prevent the practice of land conversion, the government cannot fully control it because many agricultural lands have ownership status. Therefore, there is an urgent need to increase awareness of local communities as landowners to prevent such a practice. This paper also proposes using subak, a traditional farming system, as the basis for ecotourism and agro-tourism activities to tackle the problem of land conversion in Bali.

## INTRODUCTION

Sustainable Development Goals (SDGs) encourage countries worldwide to adopt measures to achieve the 17 goals.<sup>1</sup> Some goals are interrelated with the issue of sustainable food. Grosso (2020) identifies nutrition in the context of the SDGs, suggesting that for Goal No. 12 on responsible consumption and production, there is a need for sustainable solutions for ensuring controllable and efficient food production while for Goal No. 15 on life on land, change of land use may reduce food production.<sup>2</sup> In addressing these goals, the President of Indonesia created regulations to determine national targets to achieve SDGs.<sup>3</sup> The Minister of National Development Planning/Head of the National Development Planning Agency established the National Action Plan for Food and Nutrition for 2021-2024 in accordance with the targets of the 2020-2024 National Medium Term Development Plan and the SDGs, taking into account the commitments made at The World Health Assembly (2012) and The UN Decade of Action on Nutrition 2016-2025.<sup>4</sup> Indonesia was also the host when the leaders of G20 convened in Bali on 15-16 November

2022 and called for an accelerated transformation towards sustainable and resilient agriculture and food systems and supply chains.<sup>5</sup> The Indonesian national policy on sustainable food is further continued by regional governments, considering the situation in the regions.

Bali is an example of a region where the food policy indicates a promising achievement. Infrastructure development, undeniable, seems to be an important factor supporting the realization of food security in Bali. Infrastructure can improve people's welfare, which their access to adequate food can indicate.<sup>6</sup> The Indonesian National Food Agency (NFA) released the 2023 Food Security and Vulnerability Atlas (FSVA), which revealed that several districts/cities have experienced improvements in the status of areas vulnerable to food insecurity, indicating positive movement in Indonesia's food security situation. The FSVA also includes a food security index (FSI), which showed that Bali is the best among other regions in Indonesia: Bali Province is designated as the Province with the best FSI (87.65%). This achievement was supported by the progress made by regencies and cities in the Bali Provinces: Gianyar Regency is the Regency with the best FSI in Indonesia (92.16%), while Denpasar City is the city with the best FSI in Indonesia (95.80%).<sup>7</sup> However, in terms of the status of Sustainability of Food Availability in Bali Province, both Denpasar City and Gianyar Regency are Regency/City areas that have a terrible risk score, where the land used to support food supply is very quickly affected by disasters and the condition of nutrient cycles is easily disturbed by materials. pollutants entering the soil. Therefore, based on the sustainability cri-

1 The United Nations General Assembly, (2015). A/RES/70/1: *Transforming Our World: the 2030 Agenda for Sustainable Development*, para. 59.

<<https://documents.un.org/doc/undoc/gen/n15/291/89/pdf/n1529189.pdf?token=ZUwW9RqSVDGz-rGVMzs&fe=true>> [Last accessed: 7 June, 2021].

2 Grosso, G., Mateo, A., Rangelov, N., Buzeti, T., Birt, C., (2020). Nutrition in the Context of the Sustainable Development Goals. *European Journal of Public Health*, 30 (Supplement 1), p. i20. <https://doi.org/10.1093/eurpub/ckaa034>

3 Presidential Regulation No. 111, (2022) concerning Implementation of the Achievement of Sustainable Development Goals. *National Sustainable Development Goals 2024 Targets*. Article 2 (1) <<https://peraturan.go.id/id/perpres-no-111-tahun-2022>> [Last accessed: 7 June, 2024] and Presidential Regulation No. 59 (2017) concerning Implementation of the Achievement of Sustainable Development Goals. *National Targets for the period 2017 to 2019 in the 2015-2019 National Medium Term Development Plan*. Article 2 (1) <<https://peraturan.go.id/id/perpres-no-59-tahun-2017>> [Last accessed: 7 June, 2024].

4 Ministry of National Development Planning/the National Development Planning Agency (2021, October 18). *Decree No. KEP 124/M.PPN/HK/10/2021 concerning Determination of the National Action Plan for Food and Nutrition for 2021-2024*, para.1 and Attachment p. 6 <<https://jdih.bappenas.go.id/peraturan/detailperaturan/2804>> [Last accessed: 7 June, 2024].

5 G20 (2022, November 15-16). *The G20 Bali Leaders' Declaration*, para. 6. Ministry of Foreign Affairs of the Republic of Indonesia. <<https://kemlu.go.id/download/L3NpdGVzL3B1c2F0L0RvY3VtZW50cy9TaWFyYW4IM-jBQZXJzLzIwMjlvRzlwtIwQmFsaSUyMExIYWRlcnMIMj-clMjBEZWNsYXJhdGlvbilMjAxNS0xNiUyME5vdmVtYm-VyJlwiMjAyMiwlMjBpbmNsJlwiQW5uZXgucGRm>> [Last accessed: 7 June, 2024].

6 Mulyani, S., Putri, F., Andoko, B., Akbar, P., & Novalia, S., (2020). Dampak Pembangunan Infrastruktur Terhadap Kondisi Ketahanan Pangan di Indonesia (Studi Kasus Provinsi Bali), *Jurnal Ketahanan Nasional*, 26 (3), p. 426, 434. <<https://doi.org/10.22146/jkn.60703>>.

7 Deputy for Food and Nutrition Insecurity, National Food Agency, (2023). *Food Security Index 2023*, pp. 1, 9, 14, 18 <[https://drive.google.com/file/d/1P5KIdhdmZkVLWIpC-82TaCH\\_3rCxQaLG6/view](https://drive.google.com/file/d/1P5KIdhdmZkVLWIpC-82TaCH_3rCxQaLG6/view)> [Last accessed: 8 June, 2024].

teria for food providers, Denpasar City and Gianyar Regency have limited food sustainability status. Therefore, food productivity in these two regions can only improve if destructive and polluting factors are addressed and managed correctly, such as the potential for erosion, flooding, and soil pollution by waste.<sup>8</sup>

Despite Bali being appointed the best FSI in Indonesia, Bali faces obvious obstacles and challenges in realizing food security: the continued land conversion, especially on productive agricultural land, for non-agricultural functions. The conversion of rice fields can occur either gradually or sporadically, carried out by individuals, or instantaneously and massively on one large and concentrated area of land aiming at development projects initiated by the private sector and the government.<sup>9</sup> By the end of the 1980s, irrigated land and dry farmland in Bali were lost to agriculture at an annual rate of about 1,000 hectares. In 2003, the rate of land conversion increased further to about 3,000 hectares.<sup>10</sup> The impact of land conversion is often less recognized, so the land conversion issues are regarded as a 'small problem', and efforts to control land conversion are neglected, though it has economic, social, and environmental concerns. A tangible impact is, among others, the decline of food security,<sup>11</sup> a concept that conceives every human being can consume food and nutrition in a balanced manner.<sup>12</sup>

- 8 Handayani, C. I. M., Rahmaeni, N. K. D., Mustafa, F., & Bilalih, M., (2021, December). *Status Daya Dukung Pangan Pulau Bali*, Bali and Nusa Tenggara Ecoregion Development Control Center, Ministry of Environment and Forestry, pp. 86-87. <<http://ppebalinusra.menlhk.go.id/wp-content/uploads/2022/11/Dokumen-Status-Pangan-Pulau-Bali-2021.pdf>> [Last accessed: 7 June, 2024].
- 9 Sudarma, I. M., Djelantik, A. A. A. W. S., & Setiawan, I. G. B. D., (2024). Agricultural Land Conversion and Its Impact on Farmer's Welfare and Food Security in the Province of Bali. *Jurnal Ekonomi Pertanian dan Agribisnis* 8 (1), pp.114-115. <<http://dx.doi.org/10.21776/ub.jepa.2024.008.01.9>>
- 10 Reuter, T. A., (2022). Endangered Food Systems: Agriculture, Nutrition and Cultural Heritage in Bali, Indonesia. *Unisia* 40 (1): pp.153-154. <<https://doi.org/10.20885/unisia.vol40.iss1.art7>>
- 11 Suhadi, A. S., & Niravita, A., (2017). The Responsibility of Local Government on the Protection of Productive Agricultural Land in Indonesia. *South East Asia Journal of Contemporary Business, Economics and Law*, 12 (4), p.1.
- 12 Antara, M., & Sumarniasih, M. S., (2020). Featured Food Commodities for Food Security Support in Bali Province, Indonesia. *Agricultural Socio-Economics*

Conversion in agricultural land is a potential threat to the rice field in Bali.<sup>13</sup> The weakening of Bali's economic aspects due to tourism and the conversion of land to support development also affects dependence on food.<sup>14</sup> Rice productivity tends to decline from 2016 to 2020. In 2016, rice production reached 62.45 tons per hectare; in 2017, it fell to 59.09 tons per hectare. Even though there was an increase in 2018 and 2019, respectively, amounting to 60.11 and 60.78 tons per hectare, rice productivity in Bali Province finally experienced the most significant decline in 2020, namely 58.49 tons per hectare.<sup>15</sup>

Bali is a world tourist destination. Statistics revealed that the population of Bali in 2024 is 4.433.300 persons.<sup>16</sup> As an illustration, there were 454,801 foreign tourists (not including domestic travellers) coming directly to Bali Province in February 2024.<sup>17</sup> On the one hand, development of tourism service businesses provides positive benefits for Bali's economic growth. On the other hand, it also has negative impacts, such as high levels of conversion and land ownership and damage to natural ecosystems.<sup>18</sup>

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*Journal*, 20 (2), p.148. <<https://doi.org/10.21776/ub.agrise.2020.020.2.7>>

- 13 Adnyawati, I. A. A., (2019). Land Conversion Versus Su-bak: How Bali's Face Gradually Changing Throughout History. *Bali Tourism Journal*, 3 (1), p. 39. <<https://doi.org/10.36675/btj.v3i1.35>>
- 14 Suarni, N. W., (2022). Analysis of Rice Availability and Demand in Bali Province on 2020. *Jurnal Manajemen Agribisnis*, 10 (8), p. 590. <<https://doi.org/10.24843/JMA.2022.v10.i01.p08>>
- 15 Bali Province Regional Regulation No.7, (2022) concerning Amendments to Regional Regulation No. 3 of 2019 concerning the Medium Term Development Plan for the Universal Regional Plan of Bali Province for 2018-2023. *Rice Productivity*. Annex, p. 369 <<https://jdih.baliprov.go.id/produk-hukum/peraturan-perundang-undangan/perda/28922>> [Last accessed: 7 June, 2024].
- 16 Statistics of Bali Province, (2024). *Population Projection of Bali Province by Gender and Regency/Municipality (Thousands People)*, 2022-2024, <<https://bali.bps.go.id/indicator/12/28/1/proyeksi-penduduk-provinsi-bali-menurut-jenis-kelamin-dan-kabupaten-kota.html>> [Last accessed: 7 June, 2024].
- 17 Statistics of Bali Province, (2024, April 1). *Bali Province Tourism Development February 2024*, <<https://bali.bps.go.id/pressrelease/2024/04/01/717892/perkembangan-pariwisata-provinsi-bali-februari-2024.html>> [Last accessed: 7 June, 2024].
- 18 Bali Provincial Regulation No. 4, (2023) concerning Bali's Future Development Directions, 100 Years of Bali New Era 2025-2125. *Introduction*. Annex, Chapter I, p. 1. <<https://>

Badung is a regency in Bali that can be used as an example of how the tourism industry has significantly contributed to the agricultural land conversion practice, threatening its ability to ensure sustainable food. For decades, the Badung Regency area was gradually occupied by various types of tourism accommodations (luxury resorts, star hotels, private villas), food and beverages (restaurants, café, beach clubs), and leisure facilities (relaxing spa and entertainment) which require a transformation of a vast area of land, in particular agricultural land. Badung Regency relies dependently on the tourism sector (almost 95%).<sup>19</sup> Development of the region in the form of urban and tourism development, which goes rapidly, is threatening the sustainability of the water control system.<sup>20</sup> The number of farmers in Badung Regency is gradually decreasing. There were 39,303 farmers in 2015, which fell to 36,587 in 2018. It was then further declined to 32,161 in 2020. This decline occurred because the younger generation in Badung Regency was more interested in working in the tourism sectors, e.g. hotels, restaurants, tours, and travel.<sup>21</sup>

The above problems seem interesting to be analyzed from a human rights perspective. Indonesia is a state party to the International Covenant on Economic, Social, and Cultural Rights (ICESCR), meaning that Indonesia has an obligation to implement norms stipulated in the covenant. Article 28H of the 1945 Constitution of the Republic of Indonesia, as well as Article 36 and Article 40 of Law No. 39 of 1999 concerning Human Rights, in essence, determine that every person has the right to

have private property, residence, and a decent life. In addition, Article 20 of Law No. 5 of 1960 Concerning Basic Regulations on Agrarian Principles determines that the property right of a piece of land can be transferred and transferred to other parties. It can, therefore, be understood that someone who owns a piece of land with freehold status has the freedom to convert the land, for example, making agricultural land into a place to live or for other purposes that can improve their welfare. That person also has the right to sell it to another party to get money to be used for the benefit of his family.

Reuter (2018) carried out observatory research on the socio-cultural and economic change in Bali for many years, suggesting that the status of agriculture has adjusted in non-linear means. He gained local people's perception that agriculture, in the early 1990s, was even seen as old-fashioned. He also revealed the vital contribution of moral economies to food security in Bali, along with the negative impact agricultural "modernization" has had on them, and some recent attempts by local social movements to restore them.<sup>22</sup>

Therefore, the present paper aims to analyze the phenomena of agricultural land conversion for tourism purposes in Bali from the perspective of human rights law, particularly the rights to land, food, and tourism. It reflects legal research that primarily analyzes written documents from the international legal instruments and national law and regulation of the Republic of Indonesia. Besides, it reads relevant secondary sources, particularly journal articles and reports. The analysis is divided into four sub-sections. First, it discusses the right to land and the prevention of conversion of agricultural land. Second, it explores land conversion as a threat to the right to adequate food. Third, it assesses the right to participate in tourism development. Next, it analyzes the interrelated human rights issues in the context of land conversion in Bali. Lastly, it proposes subak as the basis for eco-tourism and agro-tourism to tackle the problem of land conversion in Bali.

[jdih.baliprov.go.id/produk-hukum/peraturan-perundang-undangan/perda/29176](http://jdih.baliprov.go.id/produk-hukum/peraturan-perundang-undangan/perda/29176) [Last accessed: 7 June, 2024].

19 Praptika, I. P. G. E., Yusuf, M., & Heslinga, J. H., (2024). How Can Communities better Prepare for Future Disasters? Learning from the Tourism Community Resilience Model from Bali. *Indonesia Journal of Tourism Futures*, p. 2. <<https://doi.org/10.1108/JTF-04-2023-0092>>

20 Sriartha, I. P., Suratman, & Giyarsih, S. R., (2015). The Effect of Regional Development on the Sustainability of Local Irrigation System (A Case of Subak System in Badung Regency, Bali Province). *Forum Geografi*, 29 (1), p. 38 <<https://doi.org/10.23917/forgeo.v29i1.789>>

21 Wirata, G., (2022). Strategi Peningkatan Ketahanan Pangan pada Masa Pandemi COVID-19 melalui Penguatan Ke-arifan Lokal di Kabupaten Badung Bali. *Jurnal Kajian Bali*, 12 (1), p. 82. <<https://doi.org/10.24843/JKB.2022.v12.i01.p04>>

22 Reuter, T., (2018). Understanding Food System Resilience in Bali, Indonesia: A Moral Economy Approach, Culture, Agriculture, Food and Environment, 41, pp. 1, 6. <<http://dx.doi.org/10.1111/cuag.12135>>

## 1. ANALYSIS

### 1.1 Right to Land and the Prevention of Conversion of Agricultural Land

According to Gilbert (2013), land rights are not typically perceived as a human rights issue as they are generally under the scope of land laws, land tenure agreements, or (spatial) planning regulations. Land rights then become a central human rights issue because they constitute the basis for access to food, housing, and development.<sup>23</sup> The Committee on Economic, Social and Cultural Rights in 2022 adopted a General Comment on Land and Economic, Social and Cultural Rights. The Committee observed that the present situation indicates the non-conducive use and management of land to realize the rights stipulated in the ICESCR. Among other critical factors in this trend are "in rural areas, competition for arable land resulting from demographic growth, urbanization, large-scale development projects, and tourism has significantly affected the livelihoods and rights of rural populations". The Committee also considers Article 11 (2) ICESCR, which, in essence, obliges state parties to develop or reform agricultural systems to achieve the most efficient development and utilization of land. Reflecting that land is used in rural areas for food production, the Committee considers land vital to ensure the enjoyment of the right to adequate food.<sup>24</sup>

The Food and Agriculture Organization (FAO) adopted voluntary guidelines on the right to adequate food in November 2004. The guidelines cover economic development policies, encouraging States to pursue agriculture, land-use, and land-reform policies that will enable farmers and food producers to earn a fair return from their labor, capital, and management. The guidelines also address the land issue, guiding States to establish

23 Gilbert, J., (2013). Land Rights as Human Rights: The Case for a Specific Right to Land, *SUR. Revista Internacional de Direitos Humanos*, 10 (18), p. 115. <<http://dx.doi.org/10.2139/ssrn.2401190>>

24 Committee on Economic, Social and Cultural Rights., (2022). General Comment E/C.12/GC/26. *Land and Economic, Social and Cultural Rights*, paras. 2 (c) and 6. <<https://www.ohchr.org/en/documents/general-comments-and-recommendations/ec12gc26-general-comment-no-26-2022-land-and>> [Last accessed: 7 June, 2024].

legal and policy mechanisms that promote conservation and sustainable land use.<sup>25</sup>

The number of land-related conflicts in Indonesia is due to the uncertainty of land laws. This shows that the national land management system still needs improvement. Currently, the two essential elements that become problems in various land cases in Indonesia are related to welfare and the legal certainty of its rights.<sup>26</sup> The National Human Rights Commission of the Republic of Indonesia adopted Standard Norms and Regulations No. 7 concerning Human Rights to Land and Natural Resources. The standard norms underline that the state is obliged to protect and guarantee the availability of productive land and prevent the conversion of agricultural land (in its broadest sense) in harmony with its ecosystem to realize sustainable and just people's food sovereignty. It also reveals that farmers, as a particular group of rights holders, face the problem of conversion of food agricultural land and around food agricultural land causes food agriculture to experience pollution and be attacked by pests.<sup>27</sup>

### 1.2. Land Conversion as the Threat to the Right to Adequate Food

Food is a basic need for the continuation of human life, which, if not available, can create conditions that threaten life. Therefore, the right to

25 Food and Agriculture Organization of the United Nations Rome, (2004, November 22-27). *Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security*, Guidelines 2.5., 8.10. <<https://openknowledge.fao.org/items/6b7d9ece-1ff8-44e7-9fba-cba32366dea0>> [Last accessed: 7 June, 2024].

26 Yasa, P. G. A. S., Sudiarawan, K. A., Dwijayanthi, P. T., & Pranajaya, M. D., (2021). Legal Politics of Land Rights Certification in the Indonesian Context: Between Agrarian Conflicts and Demands for Legal Certainty. *International Journal of Criminology and Sociology*, 10, p. 898. <<https://doi.org/10.6000/1929-4409.2021.10.106>>

27 National Commission of Human Rights of the Republic of Indonesia, (2021) *Standar Norma dan Pengaturan Nomor 7 Tentang Hak Asasi Manusia atas Tanah dan Sumber Daya Alam*, Jakarta, paras. 76, 335. <<https://www.komnasham.go.id/index.php/peraturan/2022/08/05/39/standar-norma-dan-pengaturan-nomor-7-tentang-hak-asasi-manusia-atas-tanah-dan-sumber-daya-alam.html>> [Last accessed: 7 June, 2024].

adequate food is a human right.<sup>28</sup> Article 11 ICESCR comprises two components of the right to food. First, the right to adequate food is a part of the right to an adequate standard of living under Article 11(1) and the fundamental right to be free from hunger under Article 11(2).<sup>29</sup> Article 11 (1) ICESCR ensures the right of everyone to an adequate standard of living for himself and his family, including adequate food for the continuous improvement of living conditions. Article 11 (2)(a) ICESCR further determines that the state shall take measures and programs to improve methods of production, conservation, and distribution of food, among others, by developing or reforming agrarian systems. The right to adequate food is realized when every person, whatever gender or age, alone or in a community with others, always has physical and economic access to adequate food or its procurement ways.<sup>30</sup> This type of right places greater emphasis on individual human beings rather than on the general term of “all people”.<sup>31</sup> As outlined in General Comment No. 12, the exercise of the right to adequate food shall use sustainable means and refrain from contrasting actions with the enjoyment of other human rights, e.g. the right to water.<sup>32</sup>

28 UNESCO, (2017). Kerangka Analisis untuk Mengintegrasikan Tujuan Pembangunan Berkelanjutan (SDGs) dengan Kewajiban Pemenuhan Hak-Hak Asasi Manusia untuk di Indonesia (Analytical Framework for Integrating Sustainable Development Goals (SDGs) with the Obligation to Fulfill Human Rights in Indonesia). Jakarta, p. 15. <<https://sdg.komnasham.go.id/sdg-content/uploads/2017/04/Analytical-Framework-for-SDGs-and-Human-Rights-in-Bahasa.pdf>> [Last accessed: 8 June, 2024].

29 Domingo-Cabarrubias, L. G., (2023). The Right to Food and Substantive Equality as Complementary Frameworks in Addressing Women’s Food Insecurity. *International Journal of Law in Context*, 19 (3), p. 369. <<https://doi.org/10.1017/S1744552323000022>> [Last accessed: 7 June, 2024].

30 Committee on Economic, Social and Cultural Rights E/C.12/1999/5, *General Comment No. 12 (1999) on the Right to Adequate Food*, para 6. <<https://www.ohchr.org/en/documents/general-comments-and-recommendations/ec1219995-general-comment-no-12-right-adequate-food>> [Last accessed: 7 June, 2024].

31 Food And Agriculture Organization of The United Nations, (2008). *Methods to Monitor the Human Right to Adequate Food Volume II: An Overview of Approaches and Tools*, Rome, p. 4-5. <<https://www.fao.org/4/i0351e/i0351e00.htm>> [Last accessed: 7 June, 2024].

32 Sulistina, (2023). Agricultural Policy and Food Security: Challenges and Opportunities. *Proceeding International Conference on Law and Society: Agricultural Law Issues in Multicultural Societies* 1(1), p. 187. <[https://law.unej.ac.id/wp-content/uploads/2023/11/PROCEEDING\\_ICLS\\_VOL\\_1\\_FINAL.pdf](https://law.unej.ac.id/wp-content/uploads/2023/11/PROCEEDING_ICLS_VOL_1_FINAL.pdf)>

Law No. 18 of 2012 concerning Food is the legal basis for implementing food sector activities in Indonesia. The preamble of the law stipulates that food is the most important basic human need, and its fulfilment is part of human rights guaranteed in the 1945 Constitution of the Republic of Indonesia as an essential component for creating quality human resources. In addition, it mentions that food sovereignty is the right of the state and nation to independently determine Food policies that guarantee the right to food for the people and give the community the right to determine a food system based on local resource potential. The increasing rate of conversion of agricultural land (in particular, the Islands of Java and Bali) and the increasing national food needs are some of the factors behind the development of concepts and policies for food production in central areas (food estates).<sup>33</sup>

### 1.3 Right to Participate in Tourism Development

Nurjaya (2022) assesses that despite tourism rights playing a vital role in developing sustainable tourism, it has yet to be academically deliberated. The lack of regulation of tourism rights may be because it is not regarded as a fundamental issue compared to human and ecological rights. However, this right is essential for developing sustainable tourism in the country.<sup>34</sup> From an instrumental aspect, the ‘right to tourism’ is enshrined in the Global Code of Ethics for Tourism and the Framework Convention on Tourism Ethics, reflecting an adoption of the right to rest and leisure as the second-generation rights which stipulated in the ICESCR.<sup>35</sup>

[ac.id/wp-content/uploads/2023/11/PROCEEDING\\_ICLS\\_VOL\\_1\\_FINAL.pdf](https://ac.id/wp-content/uploads/2023/11/PROCEEDING_ICLS_VOL_1_FINAL.pdf)

33 Ministry of Agriculture, (2021, August 26). Decree of the Minister of Agriculture No. 484/KPTS/RC.020/M/8/2021 concerning the Second Amendment to the Decree of the Minister of Agriculture No. 259/KPTS/RC.020/M/05/2020 concerning the Strategic Plan of the Ministry of Agriculture for 2020-2024, Annex, p. 50. <[https://rb.pertanian.go.id/upload/file/RENSTRA%20KEMENTERIAN%202020-2024%20REVISI%202022%20\(26%20Agt%202021\).pdf](https://rb.pertanian.go.id/upload/file/RENSTRA%20KEMENTERIAN%202020-2024%20REVISI%202022%20(26%20Agt%202021).pdf)> [Last accessed: 8 June, 2024].

34 Nurjaya, I. N., (2023). Legal Policy of Sustainable Tourism Development: Toward Community-Based Tourism in Indonesia. *Journal of Tourism Economics and Policy*, 2 (3), p. 125 <<https://doi.org/10.38142/jtep.v2i3.404>>

35 Tremblay-Huet, S., & Lapointe, D., (2021). The New Re-

The existence of rights to tourism and a stand-alone right, however, is still a matter of debate in the context of third-generation Human Rights due to the lack of clarity regarding rights holders, duty bearers, and their contents.<sup>36</sup> The European Economic and Social Committee on Social Tourism determines three indicative conditions to understand social tourism. Two of them, in essence, are related to the right to tourism: the real-life circumstances are such that it is totally or partially impossible to exercise the right to tourism, and entities fully decide to take action to enable a person to exercise their tourism rights.<sup>37</sup>

Law No. 10 of 2009 concerning Tourism (Indonesian Tourism Law) recognizes that the freedom to travel and enjoy free time in the form of tourism is part of human rights.<sup>38</sup> Article 19 (1) of the Indonesian Tourism Law recognizes the right of everyone to have the opportunity to fulfil their tourism needs; carry out tourism business; become a tourism worker/laborer; and/or; play a role in the process of tourism development.<sup>39</sup> Article 19 (2) of the Indonesian Tourism law emphasizes that every person and/or community in and around a tourism destination has priority rights to employment, consignment, and/or management. It, therefore, makes clear that a landowner having a land located in a tourism destination has a Right to Participate in Tourism Development.

## 1.4 The Interrelated Human Rights in the Context of Land Conversion in Bali

The national and regional governments have realized that uncontrolled agricultural land conversion may impact food security. They adopted some regulations to prevent the more catastrophic effect resulting from such a land conversion practice. Presidential Regulation No. 59 of 2019 concerning the Controlling of Farmland Conservation was established to accelerate the establishment of a map of protected rice fields in order to fulfill and maintain the availability of rice fields to support national food needs; control the increasingly rapid conversion of rice fields; empower farmers not to convert rice fields; and provide data and information on rice fields for determining sustainable food agricultural land.<sup>40</sup> Article 6 further determines a map of protected farmland to be carried out through verification of farmland, synchronization of farmland verification results, and implementation of the determination of the farmland map protected.

At the regional level, the Bali Province Regional Spatial Planning Plan for 2023-2043 underlines the need to consider Spatial Planning Plan provisions in the conversion of land to sustainable food agriculture areas and/or technically irrigated rice fields.<sup>41</sup> It also covers the Indication of Directions for Zoning of Agricultural Areas including a prohibition on the conversion of Sustainable Food Agricultural Land and activities that have the potential to disrupt the function of Agricultural Areas.<sup>42</sup> The indication also includes prevention and prohibi-

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sponsible Tourism Paradigm: The UNWTO's Discourse Following the Spread of COVID-19. *Tourism and Hospitality*, 2 (2), p. 254. <<https://doi.org/10.3390/tourhosp2020015>>

36 Arsika, I. M. B., Jaya, I. B. S. D., & Satyawati, N. G. A. D., (2018). Kebijakan Travel Warning dan Pembatasan Hak Berwisata, *Pandecta Research Law Journal*, 13(1), p. 33. <<https://doi.org/10.15294/pandecta.v13i1.15115>>

37 Panasiuk, A., & Wszendybyt-Skulska, E., (2021). Social Aspects of Tourism Policy in the European Union. The Example of Poland and Slovakia. *Economies* 9(1), p. 7. <<https://doi.org/10.3390/economics9010016>>

38 Dharmawan, N. K. S., (2012). Tourism and Environment: Toward Promoting Sustainable Development of Tourism: A Human Rights Perspective. *Indonesia Law Review*, 2(1), p. 34. <<https://doi.org/10.15742/ilrev.v2n1.10>>

39 Laheri, P. E., (2015). Tanggung Jawab Negara terhadap Kerugian Wisatawan berkaitan dengan Pelanggaran Hak Berwisata Sebagai Bagian dari Hak Asasi Manusia. *Jurnal Magister Hukum Udayana*, 4(1), pp. 126-127, <<https://doi.org/10.24843/JMHU.2015.v04.i01.p10>>

40 Presidential Regulation No. 59, (2019). Concerning the Controlling of Farmland Conservation. *Purpose of the Enactment of the Presidential Regulation*. Article 2. <<https://peraturan.go.id/id/perpres-no-59-tahun-2019>> [Last accessed: 8 June, 2024].

41 Bali Provincial Regulation No. 2, (2023). Concerning Bali Province Regional Spatial Planning Plan for 2023-2043. *Indication of Zoning Directions for Water Resources Irrigation Systems*. Article 80 (1). <<https://jdih.baliprov.go.id/produk-hukum/peraturan-perundang-undangan/perda/29122>> [Last accessed: 8 June, 2024].

42 Bali Provincial Regulation No. 2, (2023). Concerning Bali Province Regional Spatial Planning Plan for 2023-2043. *Indication of Agricultural Area Zoning Directions: Activities that are not Permitted*. Article 90 (c). <<https://jdih.baliprov.go.id/produk-hukum/peraturan-perundang-undangan/perda/29122>> [Last accessed: 8 June, 2024].

tion on the conversion of agricultural cultivation land into non-agricultural land, except for the construction of infrastructure network systems supporting agricultural areas, such as road networks, electrical energy networks, telecommunications networks, and water networks.<sup>43</sup>

In principle, everyone who owns land in Bali, especially land with an ownership status, has the right to use it, employ other parties to manage it, rent it out, or even transfer the ownership to someone else. The person also deserves to benefit or profit from these things. Problems arise when the land is productive agricultural land, and the owner is tempted to rent or sell the land to other parties for tourism industry interests. This is where the intersection between land ownership rights, the right to food, and the right to be involved in tourism development lies.

From a human rights perspective, the Vienna Declaration and Programme of Action (1993) determines that all human rights are universal, indivisible, interdependent, and interrelated, which must be treated in a fair and equal manner, on the same footing, and with the same emphasis. This basic concept must be used as a basis for analyzing the rights to land, the right to food, and the right to tourism in the context of agricultural conversion practice in Bali.

The UN Special Rapporteurs on the Right to Food repeatedly explain the tight relations between the right to food and land rights. They argued that discrimination in the access to land rights may directly impact the realization of the right to food. They also urge all stakeholders (governments, investors, and local communities) to adopt a more structured approach, placing human rights standards at the center of negotiations as well as introduce a principle outlining that transfer of land use or ownership can only take place with the free, prior and informed consent of the local communities.<sup>44</sup>

43 Bali Provincial Regulation No. 2, (2023). Concerning Bali Province Regional Spatial Planning Plan for 2023-2043. *Indication of Directions for Zoning Agricultural Areas: Prevention and Prohibition of Converting Agricultural Cultivation Land to Non-Agricultural Land*. Article 90 (e) <<https://jdih.baliprov.go.id/produk-hukum/peraturan-perundang-undangan/perda/29122>> [Last accessed: 8 June, 2024].

44 Gilbert, J., (2013). Land Rights as Human Rights: The Case for a Specific Right to Land, *SUR. Revista Internacional de Direitos Humanos*, 10(18), pp.126-128 <<http://dx.doi.org/10.2139/ssrn.2401190>>

The 2023 Report of the Special Rapporteur on the Rights of Indigenous Peoples, José Francisco Calí Tzay, titled ‘Tourism and the rights of Indigenous Peoples’ is an obvious example of how the right to (indigenous) land collided with the tourism activities and industry. Even though the report mentions GCET and FCTE, it does not expressly use the term ‘right to tourism.’ It addresses that the short-term economic benefits of tourism projects tend to lack attention on the long-term adverse impacts on Indigenous Peoples and their lands.<sup>45</sup>

## 1.5 Encouraging Subak as the Basis for Ecotourism and Agro-tourism

The right to land in this paper tends to articulate the individual rights of the land owner to use, rent, or even sell his/her land. The right to food is scoped in the context of agricultural land conversion, which may threaten the enjoyment of the right to adequate food. Whereas, the right to tourism, in this paper, is narrowly meant as the right of everyone to be involved in tourism development and enjoy the benefits resulting from the tourism industry. The next issue is how to solve the massive practice of land conversion. Therefore, this paper proposes subak, which reflects the character of collective rights of the local community, as the basis for ecotourism and agro-tourism as one of the solutions to tackle the issue of land conversion. Both ecotourism and agrotourism must uphold the principles of environmental friendliness, sustainability, balance, independence, and benefit as standards for implementing Balinese Cultural Tourism.<sup>46</sup>

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[org/10.2139/ssrn.2401190>](http://dx.doi.org/10.2139/ssrn.2401190)

45 United Nations Special Rapporteur on the Rights of Indigenous Peoples. *Report on Tourism and the Rights of Indigenous Peoples A/78/162*, paras. 13-14 <<https://www.ohchr.org/en/documents/thematic-reports/a78162-tourism-and-rights-indigenous-peoples-report-special-rapporteur>> [Last accessed: 8 June, 2024].

46 Bali Provincial Regulation No. 5, (2020). Concerning Standards for the Implementation of Balinese Cultural Tourism. *Principles Used as a basis for Determining Standards for the Implementation of Balinese Cultural Tourism*. Article 2. <<https://jdih.baliprov.go.id/produk-hukum/peraturan-perundang-undangan/perda/28583>> [Last accessed: 8 June, 2024].

According to Sriarta, Suratman, and Giyarsih (2015), the rapid transformation of area and life posing a threat to subak<sup>47</sup> sustainability are triggered, among others, by the local government's policies biased toward tourism and are not able to accommodate agricultural sectors' interest.<sup>48</sup> Sarna (2021) assesses that agricultural development is not optimal due to the practice of conversion of agricultural land, which has directly undermined the existence of the traditional irrigation system of Subak.<sup>49</sup> According to Sedana (2021), subak, alternatively, can combine agricultural and tourism interests by developing ecotourism and agritourism.<sup>50</sup> Putra (2023) reveals how the ecotourism concept is applied in Subak Teba Majelangu, Denpasar as an example of how ecotourism protects agricultural areas from land conversion. Besides, Agripina, Siswoyo, and Sumiyati (2023) assess the agrotourism irrigation system in Subak Sembung, Denpasar, which covers an area of 103 hectares and experienced a land conversion of 14 hectares.<sup>51</sup>

Bali Province Regional Regulation No. 4 of 2023 Concerning Bali's Future Development Directions,

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- 47 Subak is a traditional organization in the field of water use and/or crop management at the farming level in the socio-agrarian, religious, and economic indigenous Balinese communities, which has historically continued to grow and develop. Law No. 15, (2023). Concerning Bali Province. *Definition of Subak*. Explanation of Article 6 <<https://peraturan.go.id/id/uu-no-15-tahun-2023>> [Last accessed: 8 June, 2024]. In 2012, the UNESCO enlisted Subak in its World Heritage List. UNESCO. (2012). *Cultural Landscape of Bali Province: the Subak System as a Manifestation of the Tri Hita Karana Philosophy*. <<https://whc.unesco.org/en/list/1194/>> [Last accessed: 8 June, 2024].
- 48 Sriartha, I. P., Suratman, & Giyarsih, S. R., (2015). The Effect of Regional Development on the Sustainability of Local Irrigation System (A Case of Subak System in Badung Regency, Bali Province). *Forum Geografi*, 29 (1), p. 34 <<https://doi.org/10.23917/forgeo.v29i1.789>>
- 49 Sarna, K., (2021). The Existence of Subak in The Legal Politics of Development Program in Bali. *Kertha Patrika*, 43 (3), p. 258. <<https://doi.org/10.24843/KP.2021.v43.i03.p02>>
- 50 Sedana, G., Yastini, N. N., & Maulina, N. M. I., (2021). Roles of Local Farmers' Organization in Supporting Food Security: Case of Subak in Bali, *IOP Conf. Series: Earth and Environmental Science*, 911, p. 2. <<https://iopscience.iop.org/article/10.1088/1755-1315/911/1/012083>>
- 51 Agripina, I. G. A. W., Siswoyo, H., & Sumiyati, (2023). Performance Assessment of Agrotourism Oriented Irrigation Systems in Subak Sembung, Denpasar City (Penilaian Kinerja Sistem Irigasi Berorientasi Agrowisata di Subak Sembung Kota Denpasar). *Berkala Sainstek*, 11(2), pp. 86, 87, 92. <<https://doi.org/10.19184/bst.v11i2.36887>>

100 Years of Bali New Era 2025-2125 envisions subak as a bastion to control conversion of functions and land ownership as well as supporting Bali's agrarian cultural order and food sovereignty. In the context of controlling conversion and land ownership in Bali, the directions, among other things, expecting a tightening of the land conversion process to maintain the area of agricultural land and rice fields, implementing a moratorium on the development of tourism service businesses, especially hotels in the Badung, Denpasar, and Gianyar areas; and as tightening licensing for the development of tourism service businesses in other districts in Bali.<sup>52</sup>

## CONCLUSION

There is a prominent intersection between land ownership rights, the right to food, and the right to be involved in tourism development in the context of agricultural land conservation in Bali. Both the national and regional governments are equally aware that converting productive farmland is one factor that weakens food security. The Bali provincial government has issued regulations and policies to prevent the practice of land conversion, which is merely conducted for the sake of the tourism industry. The land conversion, however, cannot be fully controlled by the government, considering that many agricultural lands have ownership status, which means that the land owner has the right to use it, employ other people, rent it out, or even sell it to other parties. Therefore, there is an urgent need to increase awareness of local communities as landowners to prevent such a practice. Besides, stakeholders in the tourism sector should consider the type of tourism that can combine the interests of agriculture and prevent land conversion, e.g., ecotourism and agrotourism, which uphold the basic principles of the subak system.

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- 52 Bali Provincial Regulation No. 4. (2023). Concerning Bali's Future Development Directions, 100 Years of Bali New Era 2025-2125, Annex, pp. 63, 75. <<https://jdih.baliprov.go.id/produk-hukum/peraturan-perundang-undangan/perda/29176>> [Last accessed: 8 June, 2024].

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